



Docket No.: 246066US2SRD



COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

ATTORNEYS AT LAW

RE: Application Serial No.: 10/722,607

Applicants: Masato AKITA, et al.

Filing Date: November 28, 2003

For: DIRECT TYPE FUEL CELL POWER GENERATOR

Group Art Unit: 1745

Examiner: Mercado, Julian A.

SIR:

Attached hereto for filing are the following papers:

**Provisional Election**

Our credit card payment form in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Eckhard H. Kuesters  
Registration No. 28,870

Customer Number

22850

(703) 413-3000 (phone)  
(703) 413-2220 (fax)



DOCKET NO: 246066US2SRD

FEB 12 2007

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF

MASATO AKITA, ET AL. : EXAMINER: MERCADO, JULIAN A

SERIAL NO: 10/722,607 :

FILED: NOVEMBER 28, 2003 : GROUP ART UNIT: 1745

FOR: DIRECT TYPE FUEL CELL POWER :  
GENERATOR

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS

ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the election requirement dated January 12, 2007, Applicants provisionally elect with traverse the species of Claims 1-3, identified in the outstanding Official Action as corresponding to Figures 6A-6C, for further examination on the merits. Applicants identifies Claims 1-3 as readable on the elected species. Applicants reserve the right to file one or more divisional applications directed to the non-elected species.

Furthermore, while the Election Requirement asserts that the application contains claims to patentably distinct species, MPEP § 803 states the following:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Although the outstanding Official Action does not identify search classifications, it is believed that the claims of the present application would have to be searched in a handful of sub-classes. Furthermore, since electronic searching is commonly performed, a search may

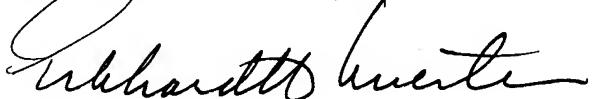
Application No. 10/722,607  
Reply to Office Action of January 12, 2007

be made of a large number of, or theoretically all, subclasses without substantial additional effort. Accordingly, Applicants respectfully traverse the Election Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, whereas it would be a serious burden on Applicants to prosecute and maintain separate applications.

Therefore, it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of Claims 1-35 be conducted.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Eckhard H. Kuesters  
Attorney of Record  
Registration No. 28,870

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)